

ADAM BARRON,)
)
 Plaintiff) Case No.:
)
 vs.)
)
 BNSF RAILWAY COMPANY,)
 a Delaware Corporation,)
)
 Defendant.)

COMES NOW the Plaintiff, Adam Barron, and for his cause of action against the Defendant, BNSF Railway Company, a Delaware Corporation, states and alleges as follows:

1. This is an action to recover damages for personal injuries Plaintiff suffered during the course and scope of his employment on November 12, 2014, while working as an assistant signalman for Defendant. Plaintiff brings this action under the Federal Employers' Liability Act (FELA), 45 U.S.C. §§ 51-60.

2. That at the time of the incident, Plaintiff was a resident and citizen of the State of Montana, but following the incident he moved and is now a resident and citizen of the State of Oregon.

3. That at all times relevant herein, Defendant was a corporation duly organized and existing under the law of the State of Delaware, and was duly licensed and empowered to operate a system of railroads as a common carrier of freight for hire in and through the State of North Dakota, and is engaged as a common carrier in interstate commerce.

Jurisdiction and Venue

4. This Court has subject-matter jurisdiction over Plaintiff's claims brought under the FELA pursuant to 45 U.S.C. § 56.

5. This Court has subject-matter jurisdiction over Defendant because it purposefully availed itself of the privilege of conducting activities in the State of North Dakota, and the incident which is the subject of this lawsuit occurred near Marmarth, North Dakota creating sufficient minimum contacts with the State to permit this Court to exercise jurisdiction over Defendant.

6. Venue of this lawsuit in this Court is proper pursuant to 45 U.S.C. § 56, which allows bringing a FELA lawsuit in a court where the cause of action arose.

7. This action brought under the FELA is timely commenced pursuant to 45 U.S.C. § 56.

Claim for Relief

Plaintiff realleges paragraphs 1 through 7 as though set forth at length and in detail herein.

8. On or about November 12, 2014, Plaintiff and co-worker, Andrea Greenwood, a signalman, were working in the course and scope of their employment with Defendant. Mr. Greenwood was driving Defendant's vehicle 21472 westbound on Highway 12, near Marmarth, North Dakota, and Plaintiff was a passenger in the vehicle.

9. At said place and time, the roads were ice and snow packed, and the temperature was near zero. Mr. Greenwood was driving too fast given the road conditions and was talking on his cellphone when he lost control of the vehicle, slid off the roadway and rolled the vehicle into the ditch.

10. As a result of the vehicle rollover, Plaintiff sustained multiple injuries including vertebral fractures, ruptured disks, temporary paralysis, torn ligaments, cranial bruising and concussion.

11. That the aforesaid injuries were caused, in whole or in part, by the negligence of Defendant's agents, employees and officers, in violation of the FELA in the following manner:

- a. failing in providing Plaintiff with a safe place to work;
- b. failing to exercise proper care when operating a vehicle given the weather conditions;
- c. failing to keep proper lookout and control when operating a vehicle given the weather conditions;
- d. failing to provide Plaintiff with safe transportation;
- e. failing to enforce its rules and procedures with respect to operating a vehicle;
- f. failing to adopt rules and procedures with respect to operating a vehicle;
- g. failing to properly train its employees with respect to operating a vehicle;
- h. transporting Plaintiff during hazardous weather conditions at a dangerous time on dangerous roads; and
- i. other acts of negligence which the evidence establishes during the pendency of the case.

12. That as a result, Plaintiff was injured, suffered pain in the past and will suffer pain in the future; has incurred expenses for medical attention and hospitalization, and will incur further like expenses in the future; has suffered loss of future earning capacity and has suffered permanent injury and disability, all to his injury and damage.

WHEREFORE, Plaintiff, Adam Barron, prays judgment against the above-named Defendant, BNSF Railway Company, for recovery of reasonable damages in an amount sufficient to fully compensate Plaintiff for the losses and damages, together with his costs and disbursements, interest, attorney fees, and any other relief as the Court deems appropriate and just.

PLAINTIFF DEMANDS TRIAL BY JURY.

Dated: 11-9-2017

HUNEGS, LeNEAVE & KVAS, P.A.



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